

May 25, 2004

## **Court in Georgia Upholds Former Militant's Conviction**

By **ARIEL HART**

The Georgia Supreme Court on Monday unanimously upheld the 2002 conviction of Jamil Abdullah Al-Amin for the murder of a sheriff's deputy.

Mr. Al-Amin, 60, formerly a militant civil rights leader known as H. Rap Brown, was convicted of shooting two deputies on a street at night in March 2000 as they approached him with an arrest warrant for offenses including impersonating a police officer. One deputy, Ricky Kinchen, died of his wounds. The other, Aldranon English, testified against Mr. Al-Amin, who is serving a life sentence.

Citing a prosecution error that the court acknowledged but discounted, Mr. Al-Amin's lawyer said he would appeal.

His brother, Ed Brown, said the decision was disappointing. "I think we were all placing hope in terms of it," Mr. Brown said.

Mr. Al-Amin's lawyers had pounced on a tactic by prosecutors that even they admit was a mistake, fueled, they say, by a sudden end to the defense's case that left little time to prepare a closing argument. At the trial, the prosecutor, Robert McBurney, had presented the jury in his closing argument with a slide titled "Questions for the Defendant." The list of questions pointed up what prosecutors said were holes in the defense.

Mr. Al-Amin had exercised his right not to testify in the trial, and his lawyers objected to the title. It was changed to "Questions for the Defense," and the judge instructed the jury not to hold it against Mr. Al-Amin that he had not testified and answered the questions.

Mr. Al-Amin's lawyer, Jack Martin, said that was not good enough. "You can't throw a skunk in the jury box and tell them not to smell it," Mr. Martin said. "And that's what happened here."

The court said that Mr. Al-Amin's "constitutional and statutory rights were violated." But in light of the judge's instructions, as well as the eyewitness identification and physical evidence that "overwhelmingly established" Mr. Al-Amin's guilt, it said, the violation was "harmless beyond a reasonable doubt."

Mr. Martin said he would ask the court to reconsider its ruling, and if necessary would appeal to the United States Supreme Court.

The Georgia court dispensed with a handful of other challenges to the conviction, including criticism of the composition of the jury and the inclusion of evidence that Mr. Al-Amin's defense said was prejudicial.

Though Mr. Al-Amin and his supporters have long argued that he was framed by a government that has feared him since his days in radical racial politics, the justices wrote that "the evidence was sufficient" for a rational guilty verdict.

Eliciting support for a conspiracy theory was complicated by the fact that both of the shooting victims were black, as is Mr. Al-Amin. The defense suggested that another man had committed the crimes and fled.

